

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine O'Connor	Team: Team # 6	CCRB Case #: 200803698	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/10/2008 10:00 PM	Location of Incident: 83rd Precinct stationhouse	Precinct: 83	18 Mo. SOL 9/10/2009	EO SOL 9/10/2009	
Date/Time CV Reported Wed, 03/12/2008 7:52 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 03/13/2008 7:52 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Patrick Cherry	01492	926676	FSD
2. SGT Patrick Divers	01566	892982	NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Andrew Amplo	03667	923505	NARCBBN
2. DT3 Meagan Barone	00657	929686	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Patrick Divers	Abuse: Sgt. Patrick Divers authorized the strip-search of § 87(2)(b)	
B.DT3 Patrick Cherry	Discourtesy: Det. Patrick Cherry spoke rudely to § 87(2)(b)	

Synopsis

§ 87(2)(b) filed the present complaint with the CCRB over the phone on March 12, 2008. He stated that, on March 10, 2008 at approximately 6:00pm, he and his friend § 87(2)(b) were walking in the vicinity of Stone Avenue and Truxton Street in Brooklyn when they were approached by Det. Andrew Amplo and Sgt. Patrick Divers of Brooklyn North Narcotics. Both males were immediately placed under arrest. § 87(2)(b) did not know why he was being arrested, and when he asked why, Sgt. Divers picked up a bag of heroin from the ground near § 87(2)(b) and § 87(2)(b) indicating that they were being arrested on narcotics charges. § 87(2)(b) and § 87(2)(b) were frisked and searched and then placed inside a prisoner van, operated by Det. Patrick Cherry and Det. Meagan Barone, also of Brooklyn North Narcotics.

At approximately 10:00pm that day, § 87(2)(b) and § 87(2)(b) along with several other prisoners, were brought back to the 83rd Precinct, at which time, Sgt. Divers authorized the strip-search of § 87(2)(b) [Allegation A]. The strip-search was allegedly carried out by Det. Cherry. Following the strip-search, § 87(2)(b) was placed in a holding pen with the other prisoners. When he asked Det. Cherry if he could have his cigarettes and phone back (as they had been vouchered), Det. Cherry replied, “You want, you want, you want. I’m not your fucking mother” [Allegation B]. § 87(2)(b)’s arrest was later sealed; § 87(2)(b) was charged with criminal possession of a controlled substance in the seventh degree.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed his complaint over the CCRB call processing system on March 12, 2008 (encl. 5a-c). He was interviewed on April 23, 2008 (encl. 6a-e). § 87(2)(b) is a § 87(2)(b)-old black male § 87(2)(b) § 87(2)(b) provided the following testimony to the CCRB; § 87(2)(g)

On March 10, 2008 at approximately 6:00pm, § 87(2)(b) was walking to a store located on the corner of Eastern Parkway and Mother Gaston Boulevard (also known as Stone Street). At the time, he did not have any narcotics or drug paraphernalia on his person. As he walked, § 87(2)(b) ran into his friend § 87(2)(b) (identified through investigation as § 87(2)(b)). § 87(2)(b) asked § 87(2)(b) if he could walk with him and § 87(2)(b) agreed. They proceeded to walk together for one block. At no time did they engage in any transactions or physical contact with one another. § 87(2)(b) stated that he did not engage in such interactions with anyone else in the vicinity, either. When they reached the store, a gray or blue unmarked vehicle drove up on the sidewalk, cutting off § 87(2)(b) and § 87(2)(b). Two officers in plainclothes exited the van. (In his original statement, § 87(2)(b) alleged that one of the officers hit him with the vehicle’s door as he exited. He did not allege this in his in-person statement.) The first (identified through investigation as Sgt. Divers) was a white male, about 6’0” and 170 lbs. His partner, (identified through investigation as Det. Amplo), was also a white male, about 5’5” and 140 lbs. Sgt. Divers approached § 87(2)(b) while Det. Amplo approached § 87(2)(b). They grabbed each male by their arms and faced them toward the vehicle. § 87(2)(b) did not know why they were stopped.

Sgt. Divers patted § 87(2)(b) down and reached into his pockets, removing his wallet, keys, cell phone, cigarettes and loose money. Det. Amplo searched § 87(2)(b) in the same manner. Up to this point, neither officer had said anything to either male. When the officers finished searching them, Det. Amplo asked § 87(2)(b) where he had been going, and § 87(2)(b) replied he had been en route to the 99¢ store. § 87(2)(b) asked why they had been stopped, at which point Sgt. Divers reached down to the sidewalk and picked up a small, glassine bag of heroin (a one-inch Ziploc with white powder in it). Sgt. Divers held the heroin to § 87(2)(b)’s face and said, “I’m taking you for this.” Assuming that the glassine bag was § 87(2)(b)’s, § 87(2)(b) asked § 87(2)(b) why he had not told him he was carrying drugs, but § 87(2)(b) did not reply.

Shortly after, a gray, unmarked Ford E250 van (license plate number § 87(2)(e)) arrived on the scene. Two officers exited: the driver (identified through investigation as Det. Patrick Cherry) was a white male, about 200 lbs., 5'9", in plainclothes. The passenger (identified through investigation as Det. Meagan Barone) was a white female with long, brown hair, about 5'6", 160 lbs., also in plainclothes. One of the officers from the van placed the items from § 87(2)(b)'s pocket inside a brown envelope. § 87(2)(b) and § 87(2)(b) were both handcuffed by Det. Cherry and then placed inside the van. Due to Det. Cherry's poor driving, § 87(2)(b) hit his head against the sides of the van numerous times during the four hours he was kept inside the vehicle. Over the course of this time, the van made several stops and approximately six other prisoners who § 87(2)(b) did not know were placed inside the van. At about 11:00pm, § 87(2)(b) and the other prisoners arrived at the 73rd Precinct (it was determined through investigation that they were actually brought to the 83rd Precinct). They were all brought to a room containing several 9' by 8', single-person holding cells located in the back of the stationhouse. Each of the prisoners was placed in separate cells, each of which was separated from those next to it by solid, metal walls. While inside the holding cell, § 87(2)(b) was strip-searched by Det. Cherry § 87(2)(b) did not mention his strip-search in his initial statement to the CCRB, only in his in-person statement). He stood in the doorway of the cell and told § 87(2)(b) to remove each article of his clothing, which § 87(2)(b) did. He asked § 87(2)(b) to hand over his clothing, at which time he felt them and shook them out. Once § 87(2)(b) was completely naked, Det. Cherry handed him back his clothes and told him to get dressed. § 87(2)(b) believed that all of the other prisoners were strip-searched as well; though he was not paying particular attention to what was going on with them, nor could he see into their cells, he presumed that they were because they had been placed in the small cells like he was. No other officers assisted Det. Cherry in his strip-search of § 87(2)(b).

As he was exiting the single holding cell, § 87(2)(b) saw Det. Cherry walking among the other cells, passing out cigarettes to the other prisoners. He told § 87(2)(b) "You're not getting one." § 87(2)(b) and the other prisoners were then taken to a larger cell near the front desk. During his arrest processing, § 87(2)(b) requested to have his cigarettes and cell phone back. At this, Det. Cherry (who was standing immediately outside the large cell) told him, "You want, you want, you want. I'm not your fucking mother" § 87(2)(b) did not allege any profanity in his intake statement; he only stated that an officer "called [him] names"). Other than the seven other prisoners in the holding cell (which included § 87(2)(b) Det. Barone was also standing by Det. Cherry when he made this comment; no other officers were present when he said this. § 87(2)(b) and the other prisoners were fingerprinted and later taken to Brooklyn Central Booking. § 87(2)(b)'s charges were "thrown out" due to a lack of evidence linking him to the narcotics or indicating that he had had physical contact with § 87(2)(b) at any time prior to his arrest.

Results of Investigation

Attempts to Locate Witnesses

§ 87(2)(b) did not have contact information for § 87(2)(b). A check of the Brooklyn Cole Directory indicated that the address given on § 87(2)(b)'s arrest report corresponded to a large residential complex; two of the residents listed had the last name § 87(2)(b). A check of Lexis Nexis (encl. 29a-b) also revealed these same two listings as the Cole Directory, along with a third resident named § 87(2)(b) living at that location. Calls were placed to all three of these numbers; two were out of service, and the third was a wrong number. A Verizon subpoena requesting § 87(2)(b)'s subscriber information (encl. 31f) yielded negative results. A "please call" letter was mailed on May 13, 2008 to the address listed on § 87(2)(b)'s arrest report; however, as no apartment number was listed, and the address was for a large apartment complex, this letter was returned to the CCRB as "unable to forward" on May 22, 2008 (encl. 30b-c). Thus, § 87(2)(b) was unavailable to this investigation.

Pertaining to the other prisoners in the holding cell at the time Det. Cherry made the alleged discourteous comment, their identities were obtained through the 83rd Precinct prisoner holding pen roster and command log. Nine potential witnesses were identified: § 87(2)(b) and § 87(2)(b).

Contact was established with § 87(2)(b) on October 16, 2008; however, she was heavily intoxicated at the time of the call (based on her own admission), and was unable to articulate a coherent statement. She admitted to being arrested on March 10, 2008, but said she did not know § 87(2)(b). When asked directly

about the events that occurred in the 83rd Precinct, she screamed into the phone and did not reply. Despite this, she refused the undersigned's suggestion to make a statement at a later time and insisted she would only talk at that moment. § 87(2)(g)

§ 87(2)(b) is homeless, and according to the Department of Homeless Services, there is no record of him in their database. § 87(2)(b)'s address was illegible in the command log, and because his arrest was sealed, there was no way to determine his address (checks of whitepages.com and DMV for his name yielded innumerable hits). As such, they were not contacted. Regarding the other prisoners, first "please call" letters were mailed to § 87(2)(b) on September 24, 2008 and to all of the others on January 7, 2009 (encl. 30e-j). (Their addresses were not determined until then due to a delay in forwarding the appropriate command log, which listed the prisoners' information.) § 87(2)(b)'s letter was returned as "unable to forward." All of their names and addresses were checked in the Cole Directories and through Lexis Nexis and whitepages.com. Possible phone number hits were located for § 87(2)(b) and § 87(2)(b). However, calls to these numbers yielded either disconnected lines, wrong numbers or no answer over five calls, even when messages were left for the intended recipients. Final "please call" letters were mailed to § 87(2)(b) on January 7, 2009 and to the other prisoners on January 29, 2009 (except for § 87(2)(b) who's address is inaccurate; encl. 30k-s). § 87(2)(b)'s and § 87(2)(b)'s letters were returned as "unable to forward," though the others were not. On March 2, 2009, the undersigned received a call from a male identifying himself as § 87(2)(b)'s brother. He explained that his brother is deaf and mute and would therefore be unable to provide a statement to the CCRB. He also explained that his brother does not live at the address where the letter was delivered, and that he had no contact information for him.

§ 87(2)(g)

Identification of Officers Interviewed

In his intake statement, § 87(2)(b) identified one officer as "PO Amplo," shield number 3667; he obtained this information from his property voucher, but did not articulate this officer's involvement in the incident. This shield number is assigned to PO Andrew Amplo, who was also identified as the arresting officer on § 87(2)(b)'s arrest report. The Brooklyn North Narcotics 83rd Precinct module tactical plan identified Sgt. Divers as Det. Amplo's partner, and Det. Cherry and Det. Barone as the officers assigned to the prisoner van. As such, these officers were interviewed.

Officers Statements

Det. Andrew Amplo, Brooklyn North Narcotics

On March 10, 2008, Det. Amplo completed an **arrest report** for § 87(2)(b) (encl. 7a-c; § 87(2)(b)'s arrest was sealed, and thus no arrest report was available). § 87(2)(b)'s arrest report (number § 87(2)(b)) indicated that he was observed "in possession of a narcotic drug" on that date at 6:30pm at Truxton Street and Stone Avenue. He was charged with criminal possession of a controlled substance in the seventh degree. Det. Amplo also completed a **criminal court complaint and supporting deposition** pertaining to § 87(2)(b)'s arrest (encl. 8a-c). The report stated that he recovered a glassine envelope of heroin from the ground where he observed § 87(2)(b) drop it. The narcotics tested positive for heroin.

Det. Amplo was interviewed at the CCRB on September 18, 2008 (encl. 9a-b). He is a white male with brown hair and brown eyes who is 5'7" and 180 lbs. On March 10, 2008, he worked as the arresting officer on a narcotics enforcement field team from 4:00pm to 12:00am. He was partnered with Sgt. Patrick Divers; the other field team members consisted of Det. Domenico Scibilia, Det. Joseph Laviano, Det. Jason Cohen, Det. Patrick Cherry and Det. Meagan Barone. Det. Amplo was in plainclothes and was assigned to a black Chrysler sedan, which he operated. Det. Amplo did not bring his memo book with him to his interview, and he provided the following statement:

On March 10, 2008, Det. Amplo was in the vicinity of Stone Avenue and Truxton Street, a mixed residential and commercial area that borders the 83rd and 73rd Precincts. At about 6:00pm, as he was driving in his vehicle, he passed by two males (he could not describe either one) walking together in a parking area outside a store (these males were identified through investigation as § 87(2)(b) and § 87(2)(b)). He then observed both males stop walking, at which time, they engaged in a drug transaction. Specifically, Det. Amplo saw one male pass the second a small (half-an-inch to one inch wide) glassine envelope

containing heroin. Det. Amplo observed this transaction from approximately one to two car-lengths away; he believed it was still light outside at the time he made the observation. He did not remember if he saw any currency exchange hands around the time the glassine was exchanged. Though he could not see the contents of the small bag, he knew from his training as a narcotics officer that this type of packaging is used to contain heroin. At that time, he determined to arrest the two individuals, so he pulled his vehicle directly next to the two males and exited. Det. Amplo did not know if he informed Sgt. Divers of what he observed before exiting the car; he did not know if Sgt. Divers had also witnessed the drug transaction. Det. Amplo stated it was his own decision to arrest the males, and he was not instructed to do so by Sgt. Divers.

As he approached the two males, the male in possession of the glassine bag (he did not recall whether it was § 87(2)(b) or § 87(2)(b)) dropped it to the ground. Det. Amplo picked up the narcotics and vouchered it as arrest evidence. (Det. Amplo later performed a field test on the narcotics, and the results were positive for heroin.) Both males were placed in handcuffs by Det. Amplo and Sgt. Divers. Det. Amplo could not recall the words exchanged between the arrested males and the officers, but he did recall that the males were professing their innocence. They were frisked and searched after they were handcuffed (he did not recall who frisked and searched whom), but Det. Amplo did not believe they recovered anything. Shortly after the males had been secured, the prisoner van was called to the scene, at which time, the officers assigned to the van (Det. Cherry and Det. Barone) took custody of both males. Det. Amplo never transported either of these males, nor did he ever enter a car with either of them. He said that no other civilians in the area passed by or interfered in these arrests.

After the two males were removed from the scene, Det. Amplo and Sgt. Divers resumed patrol; they arrived back at the 83rd Precinct at the end of their tour to process the arrests made that day. Det. Amplo did not remember if he had interaction with either § 87(2)(b) or § 87(2)(b) at the stationhouse. He did not know if either of them was strip-searched. At no point did any officer use profanity toward any arrested males that day, to Det. Amplo's knowledge.

When shown a photograph of § 87(2)(b) Det. Amplo said he did not recognize him.

Sgt. Patrick Divers, Brooklyn North Narcotics

Sgt. Divers was interviewed at the CCRB on September 24, 2008 (encl. 11a-b). He is a white male who is 6'3", 210 lbs., with gray hair and brown eyes. On March 10, 2008, Sgt. Divers worked from 4:00pm to 12:00am and was assigned to narcotics enforcement supervisor within the 83rd Precinct. He was partnered with Det. Andrew Amplo, but was also working with a larger field team including Det. Domenico Scibilia, Det. Joseph Laviano, Det. Jason Cohen, Det. Patrick Cherry and Det. Meagan Barone. He was in plainclothes and was assigned to a black Chrysler sedan, RMP number § 87(2)(b). Sgt. Divers did not have his memo book with him § 87(2)(g)

At the time Det. Amplo stopped the car and approached § 87(2)(b) and § 87(2)(b) Sgt. Divers did not know Det. Amplo's reasons for stopping. Thinking that Det. Amplo was about to arrest them, Sgt. Divers exited the car and followed Det. Amplo to assist him. As he approached, Sgt. Divers saw one of the males (he did not recall which one) drop a bag of what appeared to be heroin to the ground. When Det. Amplo picked up the bag, he told Sgt. Divers that before he had approached them, he had seen the other male pass the bag of narcotics to the one who had dropped it. Sgt. Divers had not seen the first male pass the drugs to the second; he only saw the second drop the bag. Other than the prisoner van officers, no other members of Det. Amplo and Sgt. Divers's team participated in these arrests.

Upon arriving back at the 83rd Precinct, Sgt. Divers authorized the strip-searches of § 87(2)(b) and § 87(2)(b). He determined that they should be strip-searched based on several factors: both males had been involved in a drug transaction involving narcotics contained in a small bag which could have been secreted on one's body; one of the males had tried to dump the narcotics by dropping it on the ground, indicating a possibility that they had tried to hide additional narcotics; both males denied any criminal activity (by asking why they were being placed under arrest). The strip-searches were documented in the command log and carried out by a male member of Sgt. Divers's field team in private cells (each is separated from the cells next to them by concrete walls). Sgt. Divers was not present during any of the strip-searches that day.

To Sgt. Divers's knowledge, no officers used profanity toward any civilians.

Det. Patrick Cherry, Firearms Investigations Unit

Det. Cherry was interviewed at the CCRB on November 21, 2008 (encl. 12a-b). He is a white male with Brown hair and blue eyes who is 6'0" and 190 lbs. On March 10, 2008, Det. Cherry was assigned to Brooklyn North Narcotics and was working with a field team conducting narcotics enforcement. He worked from 4:00pm to 12:00am was assigned to his team's prisoner van (a gray Ford) with Det. Meagan Barone; he believed Det. Barone operated the van. He was in plainclothes. Det. Cherry did not bring his memo book to his interview. § 87(2)(g)

When Det. Cherry and Det. Barone received a radio communication from Sgt. Divers informing them that arrests had been made at Truxton Street and Stone Avenue, they drove to the location so the prisoners could be placed in the van. When they arrived, Det. Cherry observed Det. Amplo and Sgt. Divers standing with two handcuffed males. As the two prisoners had already been apprehended by the time the prisoner van arrived, Det. Cherry did not see the events that led to their arrests. He did not learn from Det. Amplo or Sgt. Divers what led to the males' arrests. Det. Cherry did not recall seeing any narcotics at the location.

At the 83rd Precinct, Sgt. Divers directed several of the prisoners to be strip-searched. Det. Cherry could not recall if § 87(2)(b) or § 87(2)(b) were among those strip-searched, but he believed they were. Det. Cherry believed he strip-searched at least one prisoner, but he did not recall who; he did not know who strip-searched § 87(2)(b). Det. Cherry conducted the strip-search(es) one at a time by placing each prisoner in a private, single-person cell separated from those next to it by concrete walls. For each strip-search Det. Cherry stood in the cell doorway and instructed the prisoner to remove his belt and shoelaces, followed by his shoes. He then had him remove his clothing including his underwear and socks, until he was completely undressed. Det. Cherry physically inspected all of the clothing, and then instructed the prisoner to squat down to inspect his anal cavity for secreted evidence. To his recollection, each strip-search was negative for contraband. From there, each prisoner was offered food and cigarettes and taken to the holding pen, where he and Det. Barone processed the arrests.

Det. Cherry did not remember any prisoners requesting cigarettes while they were in the holding pen or single-person cells, specifically § 87(2)(b). To Det. Cherry's recollection, no officers ever used profanity toward § 87(2)(b) or any other prisoners. § 87(2)(b) was never told, "I'm not your fucking mother in response to his request for cigarettes. When shown a photograph of § 87(2)(b) Det. Cherry said that he "vaguely" remembered him from March 10, 2008.

Det. Meagan Barone, Brooklyn North Narcotics

Det. Barone was interviewed at the CCRB on December 11, 2008 (encl. 13a-b). She is a white female who is 4'11", 135 lbs., with brown hair and hazel eyes. On March 10, 2008, Det. Barone worked from 4:00pm to 12:00am and was part of a narcotics enforcement field team. She was assigned to her team's prisoner van with Det. Patrick Cherry; she did not recall who operated the van. She was in plainclothes, and she made no memo book entries pertaining to this incident. § 87(2)(g)

§ 87(2)(b) she stated that in addition to § 87(2)(b) and § 87(2)(b) there was a third male arrested at the scene of Truxton Street and Stone Avenue, and she did not recognize § 87(2)(b) from his photograph.

NYPD Documents

There were no **SPRINT** or **stop, question and frisk reports** generated pertaining to this incident (encl. 31b). The **roll call** returned from Brooklyn North Narcotics for the 83rd Precinct module was illegible (encl. 18a-b), however, the **sign-in sheet** (encl. 19a-b), **movement log** (encl. 20) and **tactical plan** (encl. 17) all confirm that the following officers were working on the 83rd Precinct module team: Sgt. Divers and Det. Amplo (assigned to a gray Honda, RMP number 2179), Det. Scibilia, Det. Laviano and Det. Cohen (assigned to the chase car, a silver GMC), and Det. Barone and Det. Cherry (assigned to a gray Ford prisoner van, RMP number § 87(2)(e)). The **83rd Precinct command log** (encl. 21a-l) listed § 87(2)(b)s and § 87(2)(b)s arrests, both entered at 10:00pm. § 87(2)(b)

§ 87(2)(b) and both were strip-searched under Sgt. Divers's authority. They were both in apparently normal condition, and transported to Brooklyn Central Booking at 12:35am on March 11, 2008. Also arrested by Det. Amplo on March 10, 2008 were § 87(2)(b) and § 87(2)(b) all (except for § 87(2)(b) who was released with a summons) were transported to Central Booking with § 87(2)(b) and § 87(2)(b). Another male, § 87(2)(b) was arrested by a different officer, but transported to Central Booking with § 87(2)(b) and the other prisoners. The **83rd Precinct prisoner holding pen roster** (encl. 22a-d) is consistent with the command log, and it also indicated that two males named § 87(2)(b) and § 87(2)(b) were in the holding pen with § 87(2)(b) (they were brought to the hospital after their arrests). § 87(2)(b)'s **property voucher** (encl. 23) listed "one glassine envelope containing heroin (field tested positive)." The heroin was vouchered as arrest evidence in voucher number § 87(2)(b). The 83rd Precinct was unable to return any documents associated with § 87(2)(b)'s arrest due to the fact that it has been sealed.

Civilian Record of Criminal Convictions

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

§ 87(2)(b) has filed 29 complaints with the CCRB, § 87(2)(b)

Sgt. Divers has been working with the NYPD for 21 years, and in that time, he has received two substantiated allegations filed against him with the CCRB (encl. 2a-d). In case number 200100446, the Board recommended charges for his having conducted an improper search; these charges were dismissed by the NYPD. In case number 200305246, the Board recommended a command discipline for a vehicle search allegation; then NYPD imposed instructions. Det. Cherry has received four substantiated allegations filed against him during his eight-year tenure with the NYPD (encl. 3a-b). In case number 200305443, he was substantiated for conducting an improper search and using physical force, and the Board recommended charges. At trial, Det. Cherry was found not guilty. In case number 200400928, the Board recommended he receive charges for an improper stop and search, but he was again found not guilty at trial.

Conclusions and Recommendations

Officer Identification

Sgt. Divers was identified through police documents as the supervising officer of the 83rd Precinct module's field team. On the 83rd Precinct command log, he noted under § 87(2)(b)'s arrest entry that he authorized his strip-search, and during his CCRB interview, he admitted that he determined to strip-search § 87(2)(b)

§ 87(2)(g)

Det. Cherry was identified from the tactical plan as being assigned to his team's prisoner van on March 10, 2008 with Det. Barone. § 87(2)(b) alleged that the male officer who operated the prisoner van also used profanity toward him at the 83rd Precinct stationhouse. As the only other officer assigned to the van (Det. Barone) was female, she did not fit § 87(2)(b)'s descriptive criteria for this subject officer. As Det. Cherry admitted to being assigned to the prisoner van, and to being in the holding pen area during § 87(2)(b)'s arrest processing, he was identified as the subject officer who allegedly told § 87(2)(b) "I'm not your fucking mother," § 87(2)(g)

It is **undisputed** that § 87(2)(b) and § 87(2)(b) were arrested on March 10, 2008 at Truxton Street and Stone Avenue after § 87(2)(b) dropped a bag of heroin to the ground. § 87(2)(b) was brought to the 83rd Precinct and strip-searched under Sgt. Divers's authority. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) was unavailable to be interviewed, and Sgt. Divers, the only other person present at the time, stated he did not see what transpired before Det. Amplo approached the two males. § 87(2)(g)

Regarding the discourtesy allegation, § 87(2)(b) claimed that Det. Cherry told him, “You want, you want, you want. I’m not your fucking mother,” after he requested his cigarettes and phone be returned to him while in the holding pen. Det. Cherry denied this allegation, and Det. Barone, who § 87(2)(b) claimed was within the only other officer within earshot of Det. Cherry, denied it as well. In spite of efforts to contact and obtain statements from the other prisoners in the holding pen at the time this allegedly occurred, none were able or available to testify as to this allegation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

According to Patrol Guide procedure 208-05 (encl. 1a-b), “A strip search will be utilized when the arresting officer reasonably suspects that weapons, contraband or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods[frisk/field search and search at police facility].... A strip search will be conducted by a member of the same sex as the arrested person in a secure area in utmost privacy and with no other arrestee present.” § 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Sgt. Divers also documented the strip-search properly in the 83rd Precinct command log. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Allegation B: Discourtesy: Det. Patrick Cherry spoke rudely to § 87(2)(b) [REDACTED]

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: